

FLOOD CONTROL ADVISORY BOARD
MINUTES
June 25, 2003

Chairman Melvin Martin called the monthly meeting of the Flood Control Advisory Board (FCAB) to order at 2:02 p.m. on Wednesday, June 25, 2003.

Board Members Present: Melvin Martin, Chairman; Scott Ward, (arrived at 2:25 p.m.) Secretary; Tom Callow, Ex Officio; Bob Larchick (for Paul Cherrington), Ex Officio; Hemant Patel.

Board Members Absent: Shirley Long, Vice Chairman; Kent Cooper; Paul Cherrington.

Staff Members Present: Mike Ellegood, Chief Engineer and General Manager; Julie Lemmon, General Counsel; Dick Perreault, CIP/Policy Manager; Tim Phillips, Deputy Chief Engineer and General Manager; Russ Miracle, Division Manager, Planning and Project Management; Joe Young, Chief Financial Officer; Michael Alexander, Management Analyst; Felica Terry, Planning Project Manager, Afshin Ahouraiyan, Planning Project Manager; Greg Jones, Regional Area Manager; Todd Williams, Water Quality Branch Manager; Linda Reinbold, Administrative Coordinator and Alicia Robertson, Clerk of the FCAB.

Guests Present: Anna Leyva-Easton, City of Mesa; Ed Fritz, MCDOT; David Buras, HDR; Teri George, David Evans and Associates; Roger Baele, David Evans and Associates; Hasan Mushtaq, City of Phoenix; Jerry Zovne, Parsons; Allen Zimmerman, City of Chandler.

1) FLOOD CONTROL DISTRICT EMPLOYEE OF THE QUARTER

Mr. Ellegood introduced the Employee of the Quarter: Cathy Regester, P.E., Senior Civil Engineer, Engineering Division. Congratulations Cathy!

ACTION: No action required – for information and discussion only.

2) APPROVAL OF THE MINUTES OF THE MEETING OF APRIL 23, 2003

Mr. Ellegood noted a modification in the wording of the April 23, 2003, FCAB Meeting Minutes. Paragraph 3, page 3 now reads: *A preliminary flood hazard has now been identified in the area of the manufactured homes. By flood proofing and elevating these*

manufactured homes, the District will address and resolve this immediate flooding problem in accordance with the remediation portion of our mission statement.

ACTION: It was moved by Mr. Callow and seconded by Mr. Patel to approve the minutes with the noted change. The motion carried unanimously.

3) SIPHON DRAW DRAINAGE IMPROVEMENTS

Felicia Terry, Planning Project Manager, presented Siphon Draw Drainage Improvements, Resolution FCD2003R003. The Resolution would allow the District to negotiate IGA's with the City of Mesa and others, if appropriate, for cost sharing, design, rights-of-way acquisition, construction management, and operation and maintenance. The IGA's would include funding in the current and future Five-Year Capital Improvement Programs (CIP).

The Siphon Draw Drainage Improvements include a detention basin at the northeast corner of Elliot and Meridian Roads. This basin will intercept flow from Siphon Draw Wash, as well as detain the overflow from a channel to be constructed along Meridian Road from Elliot Road to one-half mile north of Guadalupe Road. The Project is a vital element of the ADMP, because it will collect and convey runoff from east of Meridian Road and attenuate the flows to allow for a reduction in size of the downstream drainage improvements.

Discussion:

Callow: What is the approximate cost of this improvement?

Terry: The design and construction cost is \$16 million.

Callow: Is there a partner on the budget?

Terry: The City of Mesa and possibly MCDOT.

Callow: But that has not been negotiated yet?

Terry: No. Once the resolution is approved we can begin negotiations.

Patel: In the \$16 million, are there funds for right-of-way?

Terry: Yes.

Patel: Approximately how much of the \$16 million is for right-of way?

Terry: We had \$2.5 million for the basin; I'm not sure how much was allowed for the channel.

Martin: Is there a new development on the east side?

Terry: I'm not aware of development on the eastside.

Martin: Why did this project come up if it has not been developed?

Terry: The west side of Meridian has development and the potential for master planned communities coming in. These improvements are protecting the property in Maricopa County.

Martin: Are they willing to retain enough water so that we can reduce the size of the retention area?

Terry: They do help to reduce it. The whole design system does include the retention. But, we still need additional retention to actually help reduce the flows that get to the EMF.

Martin: Is the development in the planning stage?

Terry: Yes. There have not been any submittals for master plans for the areas that are remaining, at this point.

Martin: Did Mesa request this?

Terry: Yes. It was in the District's ADMP and Mesa asked to put it in the prioritization procedure.

Callow: Is Meridian the County border?

Terry: Yes.

Callow: So, we are actually building in Pinal County?

Terry: Yes. A basin will be built in Pinal County.

Callow: Is this our first project in Pinal County?

Ellegood: No. We have 3 (three) Pinal County structures.

Martin: They have a flood control tax, why aren't they paying to put in the basin?

Terry: It exits their jurisdiction it does not benefit their residents. It is for protection of their residents on the west side, which is in Maricopa County.

Ellegood: Three of our more major structures are in Pinal County.

Terry: We looked at the development that has already been put in place and we have extensively looked at alternative basin locations to help intercept these flows. We get so much flow from Siphon Draw Wash and other areas that this is the best location for the basin.

Martin: How did the developer deal with the ditch that goes through the location?

Terry: The developer is maintaining it, although currently it is pretty full of vegetation. Right now there is no basin so Siphon Draw Wash does go through. They have a retention basin right-of-way and the walls are set back from the road.

Martin: There is a big ditch?

Terry: Correct, it is a very large wash. We would still be allowing water to go through there. We will be looking at alternatives to routing the pipe.

Martin: When will we have information about where you are running the pipe through?

Terry: Once we get authorization for this resolution we can then get a designer on for pre-design to start looking at what is feasible.

ACTION: It was moved by Mr. Patel and seconded by Mr. Callow to approve the staff recommendation. The motion carried unanimously.

4) SCOTTSDALE ROAD CORRIDOR DRAINAGE IMPROVEMENTS PROJECT

Afshin Ahouraiyan, Planning Project Manager, presented Scottsdale Road Corridor Drainage Improvements Project, IGA FCD2002A16. The IGA is between the District and the City of Scottsdale for the design, rights-of-way acquisition, utility relocation, construction, construction management and operation and maintenance of the recommended elements of the Scottsdale Road Corridor Area Drainage Master Plan.

The recommended alternative provides a consistent 10-year level of protection for the area and also improves the capacity of the existing Cactus Park and Mescal Park basins to a 100-year level of protection. The total cost of the implementation of the Plan is estimated to be \$6,057,000 and the approximate cost of the Project addressed in this IGA is estimated to be \$4,401,000.

Discussion:

Callow: I know that the Cactus Park is used quite a bit for recreation. What exactly will you be changing?

Ahouraiyan: The southeast corner of Cactus Park, as you enter it, has a possibility of overflowing. We are increasing the height on the existing floodwall. We are only disturbing that portion of the park. Mescal Park will have to be dug out a little more to

create a larger surface area for more retention. The total cost of those two improvements to the parks is approximately \$470,000 and will provide 100-year protection.

Patel: With the \$4.4 million dollars worth of work, if a deal cannot be worked out with Paradise Valley with what we are approving today, can those improvements stand on their own?

Ahouraiyan: Can you define what you mean by, "stand on their own"?

Patel: If a deal cannot be worked out, and we were to go ahead and build these improvements, are they going to function?

Ahouraiyan: Yes, they are going to function. All of the flows end up in the Berneil Ditch in Paradise Valley. We want to improve the Berneil Ditch and raise its level of protection to 10-year. The flows are going to get there whether we do any improvements or not. The improvements are not increasing the flows to the Berneil Ditch. It is the conveyance of flows in the Berneil Ditch that are of concern. We are working with the Town of Paradise Valley to get that portion in place, so that we have a whole system planned with protection for 10-years for the entire area. The basin will help the residents along 71st Street and Scottsdale Road and the residents downstream of the basins.

Patel: How much, if any of this can be contributed to lack of maintenance with the existing facilities?

Ahouraiyan: None. The 71st Street Channel is a channel that is a roadway; one portion of it actually ends up in a cul-de-sac. The flows were utilizing the inverse crown of the roadway as a channel. Sometimes the roads become impassable. Lack of maintenance is not the issue currently. In the current IGA, the City will be taking care of the maintenance of all of these structures. They are maintaining Cactus and Mescal basins and there have not been any maintenance problems.

Martin: Did the developers put the channel in when they developed that area?

Ahouraiyan: These homes were built in the 1970's when the original Town of Paradise Valley, City of Scottsdale and City of Phoenix (PVSP) Drainage Master Plan was conducted. The parks were recommended in the plan. The City, or the developers, based on the plan that was approved back in the 1970's, put the channel in.

ACTION: It was moved by Mr. Patel and seconded by Mr. Callow to approve the staff recommendation. The motion carried unanimously.

5) CONTRIBUTION, DRAINAGE RIGHTS AND EASEMENT TO THE ADOT/I-10 BASINS

Greg Jones, Regional Area Manager, presented the Contribution, Drainage Rights and Easements to the ADOT/I-10 Basins. In 2001, the District acquired the ADOT Basins, in fee, from the Arizona Department of Transportation. Since the acquisition of the Basins, the District has been negotiating with SunCor and others to define their rights to discharge stormwater into the Basins and to provide for an equitable reimbursement to the District for its costs.

The District agrees to grant to SunCor perpetual drainage easements as necessary to accommodate SunCor's Drainage Rights. In addition, the District agrees to grant SunCor a minimum of 25 years easements within the Basins to construct, operate, and maintain drainage outfall structures, pipes and facilities, necessary to direct drainage flows into the Basins from SunCor property.

This agreement defines responsibilities of the District and SunCor for operating and maintaining the Basins; defines SunCor's drainage rights to capacity in the Basins; and provides provision for SunCor to reimburse the District \$360,272 towards the \$554,265 purchase price of the Basins.

Discussions:

Callow: Why would SunCor want to pay us?

Ellegood: Because we will not let them drain into the basins unless they do.

Callow: Is it new drainage, what has changed?

Jones: In 2000, ADOT was trying to sell this property and an individual stepped up to purchase it. He intended to fill in portions of the basins. It is apparent that the basins function as regional drainage facilities. The District, in accordance with the Bullard Wash Phase II Project, realized the need for the basins. SunCor is willing to pay us because they never formally documented their right to discharge into the basins. They had permits with ADOT, but never formal rights to discharge. The District is establishing the rights for SunCor.

Callow: In other words, they built improvements that lead into the basins and they have no legal guarantee that those improvements can continue to go there without this documentation.

Ellegood: Several years ago, the individual that bought the basins had originally planned to fill the basins in and build on them.

Callow: He bought the basin?

Ellegood: He was going to.

Lemmon: ADOT actually did put the basins up for bid and we were not aware of it, and did sell them to an individual. There were some irregularities with the sale, which were in a court action. The court said the ADOT sale was not correct and took it back out of the sale process. The District then went to ADOT and purchased the basins to avoid getting into that situation again.

Ellegood: It is a win for everyone. SunCor gets to drain into our facilities, which means they have more developable land. We preserve these basins as a regional facility and at the same time much of the cost is offset by the SunCor contributions.

Martin: Who is going to do the maintenance?

Jones: Currently, the District has the maintenance responsibilities. As part of the Bullard Wash Phase II project with the City of Goodyear, I would expect within 5 to 10 years, the maintenance responsibilities and the ownership of the basins to transfer to the City of Goodyear.

Ward: What was lacking here? There had to be some sort of agreement that SunCor was missing.

Lemmon: Before we bought the basins?

Ward: Yes.

Lemmon: Yes, there had been some litigation between SunCor and ADOT over what rights they had. SunCor thought they had good rights and ADOT didn't think they had good rights. When the sale took place, it was not clear what rights existed in the basin and that they could in fact be changed into something else other than a basin. The cities and the District had an interest in making sure the basins stayed basins. This is one of the reasons why, when we have the opportunity to buy areas from ADOT that we had easements over, we acquire the fee rights to them. I spoke strongly because sometimes there is not a communication between the local jurisdictions and state and if they put something up for sell and we are not aware of it, it may be sold subject to our easements.

In this case, it was someone else's easements that were sold. You are right Mr. Ward, there was something missing. There may be someone here from SunCor that would like to speak.

Ellegood: Basically, what we are asking the FCAB to do is to authorize us to accept someone else's money. It is a neat thing to ask for.

Ward: I was going to offer a compliment; it looks like we are accepting money and then we are getting a municipality to maintain the area. Greg, I'm glad you are coming to us with a project that we do not have to put money into.

ACTION: It was moved by Mr. Patel and seconded by Mr. Larchick to approve the staff recommendation. The motion carried unanimously.

6) **STORMWATER PERMITTING SERVICES**

Todd Williams, Water Quality Branch Manager, presented the Stormwater Permitting Services IGA FCD2003A006. On March 10, 2003 the District acted as an agent on behalf of Maricopa County and applied for stormwater permit coverage for 12 industrial permits, 1 non-exposure certification and 1 municipal permit. The purpose of this IGA is to clarify roles and responsibilities of the District and County for compliance with the AZPDES Stormwater Permit Regulations.

ACTION: No action required – for information and discussion only.

7) **COMPARATIVE REPORT OF FY 2003 FINANCIAL OPERATIONS – YTD 3RD QUARTER ENDING AND STATUS OF FY 03/04 BUDGET**

Michael Alexander, Management Analyst, presented a financial analysis of FY 2003 Financial Operations comparing actual results to budget on a year to date 3rd quarter ending basis. Full FY Ending Revenue, Expenditure and Ending Fund Balance Projections were also presented.

Michael Alexander continued with the Status of the FY 03/04 Budget, comparing the FY 2003 Revenue Budget and FY 2004 Revenue Budget. The biggest item increase is in the secondary property tax. This is a result of two factors, a constant property tax rate and asset valuations that were considerably higher in the latest Elliot Pollack forecast than they have been in recent months. The Operating Expenditure Comparison in total payroll shows a difference of \$524,306. This is a result of two factors, the increase in the Arizona State Retirement System (ASRS) employer contribution and the salary adjustment designed to offset the increase in the employee contribution.

Discussion:

Patel: In the private sector we do not deal with ASRS, can you explain how that comes about?

Alexander: There is an employee contribution as well as an employer contribution to the Arizona State Retirement System every year. The rate at which we make that contribution is going to considerably increase, about 4%, beginning July 1, 2003. Maricopa County

considered that a hardship would occur for the employees if the additional 4% were taken out of their paychecks. A salary adjustment was given to each employee to account for the increase.

Ellegood: For several years the contribution to the ASRS has been very low, primarily because the investment market has been very good. Over the past two years, the investment market was no longer as good as it once was. ASRS came out last August and said they would be increasing their rate. For about the last 2½ years the County employees have not received pay increases. The Board of Supervisors, Office of Management and Budget and others have all worked to correct that by reducing cost in other areas so that each of us could get about a 4% salary increase to offset the ASRS hit. The General Fund Agencies took a 10% cut in their operating budget. A lot of sacrificing is going on to make this happen.

ACTION: No action required – for information and discussion only.

8) COMMENTS FROM THE CHIEF ENGINEER AND GENERAL MANAGER

Mr. Ellegood began with information he received during the past month. The County is proposing to introduce a modification in the IGA with the District that would formally place the District underneath the County Management System as a County Department. The current IGA recognizes the independence of the District as a municipality. The District has worked over the years to be a cooperating agency with the County. A measure of independence from County Administration has been essential to the District's operation and it is felt that this needs to exist.

Martin: Was it legislation that specified that the District is a separate agency?

Lemmon: Yes, it says that the District is a municipal corporation and a political subdivision of the State and it is set up as an independent government. It also mandates that the Board of Directors be the Board of Supervisors, so it is kind of a push, pull situation. Being under the same five people and expecting to share government services, yet you are supposed to be an independent entity. I have not seen the language of what they are purposing, that would make a big difference to me.

Patel: How would this come about? Will we be notified that it has happened or will we be consulted?

Ellegood: I don't know. The history of this is I was sent a draft form of an organizational chart that showed the District reporting to the Regional Development Services Agency Manager, then to the County Administrator and then the Board of Directors. I sent back a memo suggesting this was not how the IGA was set up. About a month later, I received an email from the Regional Development Services Agency Manager saying that this proposal was being brought forth to clarify the reporting arrangement. I think there is good business reason not to do this. Our Board of Directors and the Board of Supervisors will need to vote on it.

Patel: How can we discuss this further? Can we make this an agenda item at our next meeting? One piece of information that I would like to look at is the fact that, didn't this come up in our audit? I would like to revisit what the audit reported.

Ellegood: I've been advised by Julie Lemmon that this is expected to be brought before the August 13th Board of Directors Meeting. I think it is important; it will perhaps make us more vulnerable to the perennial assault by certain cities to withdraw from the Flood

Control District. It may set us up for taxpayer lawsuits; there are a lot of things we need to think about.

Callow: Does it make you a Maricopa County employee?

Ellegood: We are District employees, we follow the County merit rules, etc., it is logistically easier to do that than establish our own.

Martin: I would think that if you got information to us as individuals on the FCAB, that would be appropriate and then we could relay to the Supervisors how we feel about it.

Mr. Ellegood continued with his next item. The FCAB Policy Committee met to discuss the District's Cost Share Policy and alternative methods to fund the Capital Improvements Program (CIP). Russ Miracle came forward and spoke on the conclusions of the Policy Committee Meeting held on June 12, 2003. It was recommended that the discussion go beyond the Policy Committee to an expanded group. The next step is to hold a workshop for the FCAB.

Discussion:

Callow: Our discussions that day centered not so much on the city's size, but on property protected, whether we are protecting undeveloped versus developed property.

Miracle: That is true, it is revenue from the developed areas being collected for projects in the undeveloped areas. It is consistent with the District's ambition to get ahead of development.

Ellegood: The reality is that we have major portions of the County that are build out, Phoenix, Tempe, much of Glendale and many others are build out, yet there are still flooding issues and the need for Flood Control District services and infrastructure to be constructed in these areas. At the same time areas that are developing large open tracks, Buckeye comes to mind, huge acreage has been annexed. We are asking the folks that live in the developed areas to help subsidize the growth out there. The sense from the Policy Committee Meeting was that maybe the folks in the developing areas should contribute more to their own infrastructure and protection. And the folks that live in the developed areas that have been paying the flood control tax for 50 years, not be restricted to this fifty/fifty cost shares. I think this needs to be discussed with a larger group and some of the client cities should be involved in the discussions.

Mr. Ellegood moved to his next item, which was to provide a copy of a letter he received from Ms. Carolina Butler to the FCAB.

Discussion:

Ward: I really welcome a workshop, especially if we are moving into this new sphere with the County. There are so many things that the public does not know, all the things the District does to protect the public. I would welcome bringing in the cities to sit down and talk about the taxing policies and the developing policies. As quickly as we can we should get people together to talk about these issues.

Ellegood: Is it the sense that we should get the entire FCAB together for a workshop?

Patel: I think so, Mr. Ward and Mr. Cooper and others can provide so much knowledge to the discussion.

Martin: I also think that at least the major cities involved in projects should be invited as well.

Ellegood: We need to also involve some of the less developed cities, such as Buckeye and Surprise. That is clearly the next step.

Ward: Even if we developed a Task Force or Subcommittee with a couple of people that have development experience that could report back to the FCAB, we need to focus on this right away.

Patel: I think we need to have a special meeting of the FCAB.

Ellegood: I agree, I propose a Special Meeting of the FCAB with certain members of our client cities, involving communities across the valley to see if we can develop a consensus agreement. We may end up contracting with Morrison Institute to accomplish this, but we will do what we need to.

Martin: We are not having a meeting in July correct?

Robertson: That is correct, no July meeting.

Martin: Are we having our regular meeting in August?

Ellegood: If it is the wish of the FCAB to have the Special Meeting in July we can try to do that. I'm going to ask Alicia to contact each of you and solicit your thoughts and a date.

Callow: I'd like to congratulate Mike Ellegood and Tim Phillips for getting the Laveen Project groundbreaking accomplished. Congratulations.

Ward: How many property owners were involved?

Phillips: There were 10 (ten) major property owners and 4 (four) public agencies.

Ward: That is tremendous.

Ellegood: This was quite an effort. Not only did we have just the City of Phoenix, we had Phoenix Parks, Phoenix Streets, Phoenix Development, etc., and SRP with both their Power and Water Departments.

ACTION: No action required – for information and discussion only.

9) OTHER BUSINESS AND COMMENTS FROM THE PUBLIC

There was no other business or comments from the public.

The meeting was adjourned at 3:30 p.m. by general consent.

Scott Ward
Secretary of the Board

Alicia Robertson
Clerk of the Board